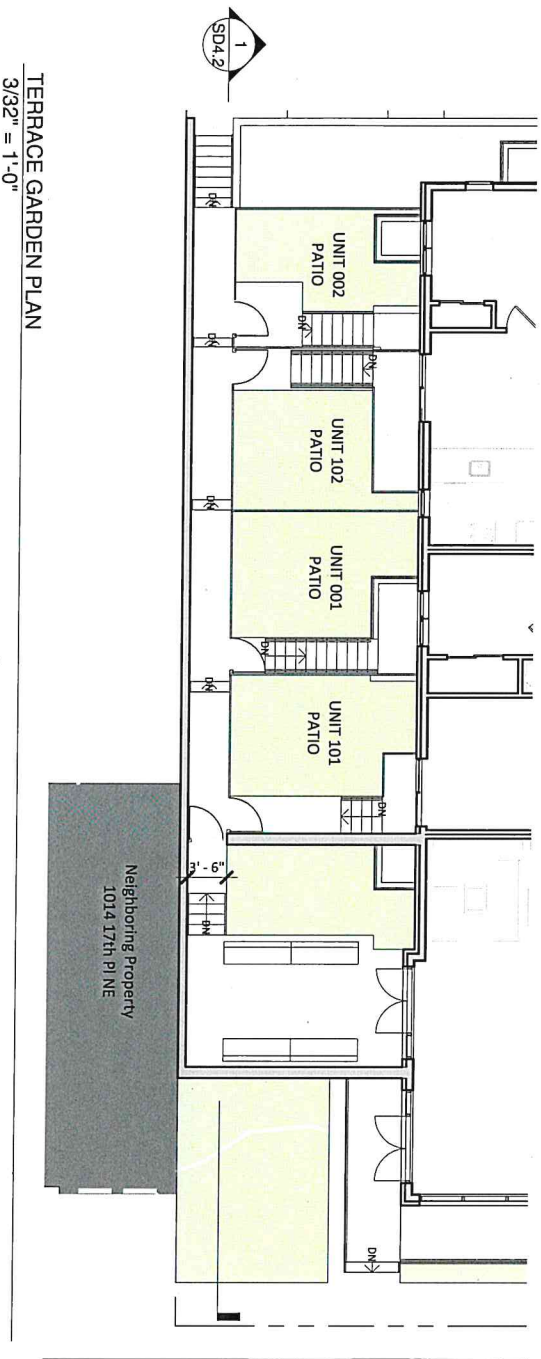
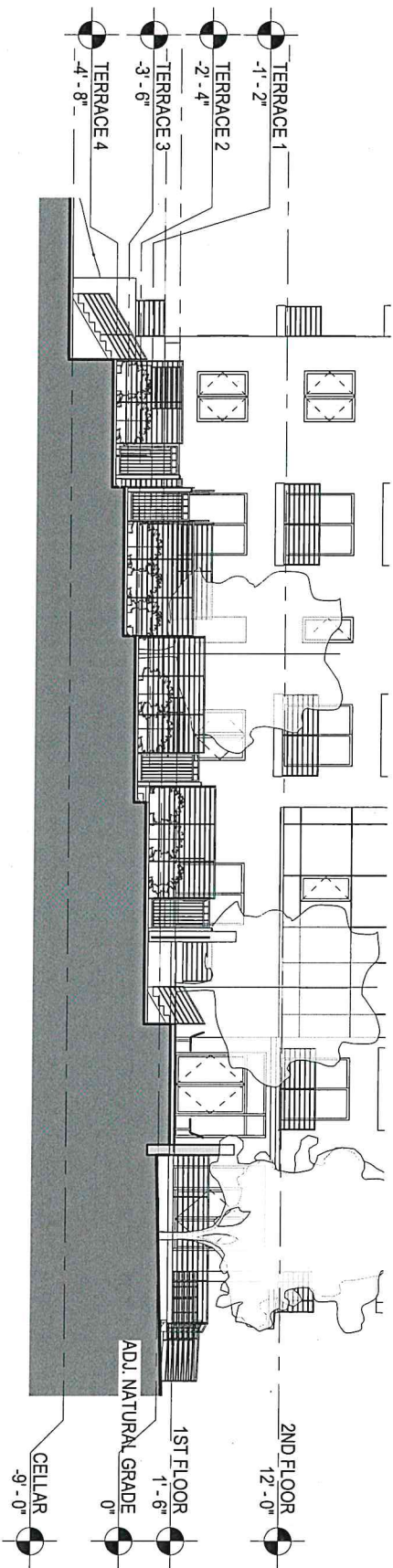


TAB C



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 17-18

**(Office of Planning –Text Amendments to Subtitles A, B, D, E, F, J, and K regarding the
Measurement of Height and Floor Area Ratio)**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of its intent to amend Subtitles A (Authority and Applicability), B (Definitions, Rules of Measurement, and Use Categories), D (Residential House (R) Zones), E (Residential Flat (RF) Zones), F (Residential Apartment (RA) Zones), J (Production, Distribution, and Repair (PDR) Zones), and K (Special Purpose Zones), of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules amend Subtitle B to revise the definitions in Chapter 1 and the rules of measurement in Chapter 3 pertaining to building height and floor area ratio (FAR). Among other things, the amendments revise the definitions of “basement” and “cellar” to change the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid the use of artificially dropped ceilings. A similar change is made to §§ 304.4 and 304.5, which respectively identify when the “perimeter wall” method or the “grade plane” method is used to calculate the FAR of a partially below-grade building. Certain window wells and areaways are identified as exceptions to finished grade and natural grade through a new definition. Conforming amendments are proposed for Subtitles D, E, F, J, and K.

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are proposed (additions are shown in **bold** underlined text and deletions are shown in ~~striketrough~~ text):

Section 301, BUILDING PERMITS, of Chapter 3, ADMINISTRATION AND ENFORCEMENT, of Subtitle A, AUTHORITY AND APPLICABILITY, is amended by adding a new § 301.15 to read as follows:

301.15 **Notwithstanding Subtitle A § 301.4, any building permit application, including a foundation-to-grade permit application, (the Permit Application) shall be processed, and any work authorized by the permit may be carried to completion pursuant to the rules for measuring floor area ratio and height as existed on [THE EFFECTIVE DATE OF THIS AMENDMENT] if the Permit Application was legally filed with, and accepted as complete by the Department of Consumer and Regulatory Affairs on or before that date.**

Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, is amended as follows:

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...¹

Areaway: A subsurface space adjacent to a building open at the top or protected at the top by a grating or guard ~~that includes window wells~~ and passageways accessing basement/cellar doors.

...

Basement: That portion of a story partly below grade ~~where the finished floor of the ground floor, the ceiling of which is four feet (4 ft.)~~ **is five feet (5 ft.)** or more above the adjacent natural or finished grade, whichever is the lower in elevation.

...

Building Area: The maximum horizontal projected area of a principal building and its accessory buildings. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title, ~~nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property.~~

Building area shall not include: Building components or appurtenances dedicated to the environmental sustainability of the building; cornices and eaves; sills, leaders, belt courses, and similar ornamental or structural features; awnings, serving a window, porch, deck or door; uncovered stairs, landings, and wheelchair ramps that serve the main floor; and chimneys, smokestacks, or flues.

...

Building, Height of: ~~In other than R, RF, RA, RC-1, CG-1, and D-1 zones, the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residential (R) zones the vertical distance measured at the existing grade at the midpoint of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height.~~

¹ The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

The term “curb” shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using Rules of Measurement for Height (Subtitle B § 308). The vertical distance measured from the Building Height Measuring Point to a point designated in a zone district, subject to limitations in the regulations.

Building Height Measuring Point (BHMP): The point used to measure building heights in R, RF, and RA zones. The point used in measuring building heights in a zone in accordance with §§ 307 or 308 of this subtitle except as may be stated elsewhere in this title, as applicable, and subject to limitations in the regulations.

...

Cellar: That portion of a story partly below grade where the finished floor of the ground floor, the ceiling of which is less than four feet (4 ft.) five feet (5 ft.) above the adjacent natural or finished grade, whichever is the lower elevation.

...

Floor Area Ratio (FAR): The ratio of the total gross floor area of a building to the area of its lot measured in accordance with § 303 of this subtitle, except as may be stated elsewhere in this title. determined by dividing the gross floor area of all buildings on a lot by the area of that lot. See Also: Subtitle B §§ 304 and 305

...

Grade, Exceptions to: The following are exceptions to “Finished Grade” and “Natural Grade” as those terms are defined below:

- (a) A window well that projects no more than four feet (4 ft.) from the building face; and
- (b) An areaway that provides direct access to an entrance and projects no more than five feet (5 ft.) from the building face; excluding associated stairs or ramps.

Grade, Finished: The elevation of the ground directly abutting the perimeter of a building or structure or directly abutting an exception to finished grade. Exceptions to Finished Grade are set forth in the definition of “Grade, Exceptions to.”

Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the

grade made in the two (2) five (5) years prior to applying for a building permit; ~~natural grade may not include manually constructed berms or other forms of artificial landscaping.~~ Exceptions to Natural Grade are set forth in the definition of "Grade, Exceptions to."

...

Gross Floor Area (GFA): Unless otherwise specified, The ~~the~~ sum of the gross horizontal areas of the several all floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings as measured in accordance with § 304 of this subtitle, except as may be stated elsewhere in this title. See Also: Subtitle B §§ 304 and 305

~~GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses; attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.~~

~~GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.~~

...

Habitable Room: An undivided enclosed space used for living, sleeping, or kitchen facilities. ~~The term "habitable room" shall not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 sq. ft.) in area, nor kitchens in commercial establishments.~~

...

Story: The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing as measured in accordance with § 310 of this subtitle. ~~The number of stories shall be counted at the point from which the height of the building is measured.~~

~~For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.~~

...

Window well: A subsurface space adjacent to a building open at the top or protected by a grating or guard that affords access, air, light, or emergency egress to a window.

...

Chapter 3, GENERAL RULES OF MEASUREMENT, is amended as follows:

Subsections 304.4 and 304.5 of § 304, RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA), are amended and new subsections 304.6, 304.7, and 304.8 are added as follows:

...

304.4 For a building entirely detached from any other building, calculation of GFA for the portion of a story located **below the finished floor of the ground floor and partly above partially below adjacent natural or finished grade** shall be **calculated by the perimeter-wall method, which is** as follows:

- (a) Measure the portions of the perimeter of the story located ~~partially below~~ **below the finished floor of the ground floor that are five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is the lower elevation** finished grade that have a height greater than or equal to four (4) feet, when measured between the finished grade and the ground floor of the story above;
- (b) Measure the total perimeter of the story located **below the finished floor of the ground floor** ~~partially below finished grade~~;
- (c) Divide the distance of the result of paragraph (a) by the distance of the result of paragraph (b); and
- (d) Multiply this ~~the result from paragraph (c)~~ **the result from paragraph (c)** by the total floor area of the story located ~~partially below finished grade~~ **below the finished floor of the ground floor**.

304.5 For a ~~building attached at any point to a neighboring building~~ **semi-detached or attached building**, GFA of ~~for~~ the portion of a story **below the finished floor of the ground floor** ~~located partially below~~ **and partly above adjacent natural** or finished grade shall be calculated **by the grade-plane method, which is** as follows:

- (a) **For the purposes of this measurement, a building's "front façade" is the façade facing the nearest street and a building's "opposite face" is the portion of the building that faces the opposite direction of the front façade;**

- (b) ~~Establish a line between the midpoint of a building façade facing the nearest street at finished grade and the midpoint of the opposite building façade at finished grade;~~ Establish a line between the midpoint of a building's front façade at the adjacent natural or finished grade, whichever is the lower elevation, and the midpoint of the building's opposite face at the adjacent natural or finished grade, whichever is the lower in elevation, subject to paragraph (c);
- (c) If excavations project from the building's front façade or opposite face that are not an exception to grade, as defined at 11-B DCMR § 100.2, the elevation of the midpoint of the building front façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way;
- (d) ~~Determine the portion of this line that is five feet (5 ft.) or more below where the distance between it, and the ground~~ the finished floor of the ground floor of the story directly above, is greater than or equal to six (6) feet;
- (e) Project a perpendicular line from the point along the line described in paragraph (d) to the exterior walls of the building; and
- (f) Measure the floor area that is between the projected perpendicular line and the other portions of the story five feet (5 ft.) or more below the finished floor of the ground floor with a height greater than or equal to six (6) feet when measured from the perpendicular line to the ground floor of the story above.
- ...

304.7

GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6ft., 6 in.), or more); interior balconies; and mezzanines.

304.8

GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not

more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.

Subsections 307.1, 307.2, and 307.4 of § 307, RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES, are amended and a new § 307.8 is added as follows:

307.1 In other than R, RF, RA, RC-1, CG-1 and D-1 residential zones, as defined in Subtitle A § 101.9, and except as permitted elsewhere in this section and the regulations, the building height measuring point (BHMP) shall be established at the at the level of the curb, opposite the middle of the front of the building, and the building height shall be the vertical distance measured from the BHMP the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district.

307.2 Unless otherwise restricted or permitted in this title, in those zones in which the height of the building is limited to forty feet (40 ft.), ~~the height of the building may be measured from~~ the BHMP may be established at the adjacent natural or finished grade, whichever is the lower in elevation, level at the middle of the front of the building and building height shall be measured from the BHMP to the ceiling of the top story.

...

307.4 Except as provided in Subtitle B § 307.6, where a building is removed from all lot lines by a distance equal to its proposed height above grade, ~~the height of building shall be measured from the~~ BHMP shall be established at the adjacent natural or finished grade, whichever is the lower in elevation, at the middle of the front of the building to the highest point of the roof or parapet.

...

307.7 The term “curb” shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the BHMP shall be established ~~height of a building shall be measured using the first of the following four (4) methods that is applicable to the site:~~

- (a) An elevation or means of determination established for a specific zone elsewhere in this title;
- (b) An elevation for the site that was determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors;
- (c) A street frontage of the building not affected by the artificial elevation; or

- (d) A level determined by the Zoning Administrator to represent the logical continuation of the surrounding street grid where height is not affected by the discontinuation of the natural elevation.

The title of Section 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, RA, RC-1, CG-1, AND D-1 ZONES, is amended to read as follows:

RULES OF MEASUREMENT FOR BUILDING HEIGHT: ~~R, RF, RA, RC-1, CG-1, AND D-1~~ RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9

Subsections 308.1 and 308.2 of § 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9, are amended to read as follows:

- 308.1 The height of buildings, not including a penthouse, in ~~R, RF, RA, RC-1, CG-1, and D-1~~ residential zones, as defined in Subtitle A § 101.9, shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.
- 308.2 The building height measuring point (BHMP) shall be established at the ~~existing adjacent natural or finished~~ grade, whichever is the lower in elevation, at the mid-point of the building façade of the principal building that is closest to a street lot line. For any excavations projecting from the building's façade other than an exception to grade as defined at 11-B DCMR § 100.2 the elevation of the midpoint of a building façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way.

Section 310, RULES OF MEASUREMENT FOR NUMBER OF STORIES, is amended by adding new subsections 310.5 and 310.6 as follows:

- 310.5** Where there are multiple elevations for the finished floor of the ground floor, the height used for counting the number of stories shall be determined by the highest elevation of the finished floor.
- 310.6** For a building where the finished floor of the ground floor is removed or altered in height in association with a renovation where a raze of the building has not occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for counting the number of stories.

Subsection 207.4 of § 207, HEIGHT, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

- 207.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

Subtitle E is amended as follows:

Subsection 303.5 of § 303, HEIGHT, of Chapter 3, RESIDENTIAL FLAT ZONE-RF-1, is amended as follows:

303.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

Subsection 403.5 of § 403, HEIGHT, of Chapter 4, DUPONT CIRCLE RESIDENTIAL FLAT ZONE-RF-2, is amended as follows:

403.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

Subsection 603.4 of § 603, HEIGHT of Chapter 6, RESIDENTIAL FLAT ZONE-RF-4 AND RF-5, is amended as follows:

603.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided, that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

Subsection 203.4 of § 203, HEIGHT, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended as follows:

203.4 Except as provided in Subtitle F §§ 203.2 and 203.3, a building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

Subsection 203.3 of § 203, HEIGHT, of Chapter 2, DEVELOPMENT STANDARDS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is amended as follows:

203.3 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.) not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

Subsection 305.2 of § 305, HEIGHT (USN), of Chapter 3, UNION STATION NORTH ZONE-USN, of Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:

305.2 The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by ~~Subtitle C, Chapter 5~~ **Subtitle B § 307.1**.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.